

Iowa Department of Natural Resources Environmental Protection Commission

ITEM

DECISION

TOPIC **Final Rule: Chapters 20, 22, 23, Air Quality Program Rules – Permitting Rules for Grain Elevators**

The Department is requesting that the Commission adopt amendments to Chapter 20, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 22, "Controlling Pollution," and Chapter 23, "Emission Standards for Contaminants" of the 567 Iowa Administrative Code.

The rule amendments modify requirements for certain types of grain elevators by adding a new rule 567—22.10(455B) with special requirements for these facilities. The rule amendments define each type of facility, and also specify for each type of facility the permitting options, emissions calculation methodology, emissions reporting and record keeping, and best management practices for controlling air pollution. A new particulate matter emission standard will also be established for bin vents located at country grain elevators through amendments to subrule 23.4(7).

Public Comment Period and Hearings: Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on August 29, 2007, as ARC 6186B. Public hearings were held on September 24, September 26, and October 2, 2007, in Urbandale, Cedar Rapids, and Spencer, respectively. No oral comments were received at the public hearings. Four sets of written comments were received before the public comment period closed on October 3, 2007. The submitted comments and the Department's response to the comments are summarized in the attached responsiveness summary. The Department made changes to the adopted rules from what was published in the Notice in response to comments and also to make corrections and clarifications. These changes are explained in detail in the responsiveness summary, and also are summarized in the agenda brief below.

Overview of Permitting Rules and BMP: Owners and operators of air pollution sources, including grain elevators, are required to obtain permits and meet applicable air pollution standards. However, in 1978, the Sixty-Seventh Iowa General Assembly limited the Department's ability to regulate country grain elevators. Since that time, the Department has not enforced the requirement that the owner or operator of a grain elevator obtain air construction permits. However, the passage of the 1990 amendments to the federal Clean Air Act (CAA) created a new operating permit program for major sources of regulated air pollutants. As a result, the U.S. Environmental Protection Agency (EPA) required that the restrictions limiting the regulation of grain elevators be removed to allow Iowa to have a federally approved operating permit program. The Iowa General Assembly subsequently removed these restrictions in 1995, and EPA granted federal approval of Iowa's operating permit program in 1995. Removal of the restrictions necessitated that the Department review and permit air emissions at hundreds of grain elevators to bring them into compliance with the air construction permitting requirements of rule 567—22.1(455B).

In an effort to minimize the regulatory burden to the owners or operators of grain elevators while still ensuring that Iowa's air quality is protected, the Department began working with the Agribusiness Association of Iowa (AAI) to develop a streamlined mechanism for permitting. Facility information from amnesty registrations, along with information received through an unofficial survey of the permitting requirements for grain elevators in surrounding states, assisted the Department and the work group in developing a permitting strategy.

The rule amendments will allow grain elevators in Iowa to be regulated in a manner similar to that of surrounding states and splits the grain elevator source sector into four groups characterized by their potential to emit for particulate matter with a diameter less than or equal to 10 microns (PM10). The groups are numbered 1 through 4 with Group 1 facilities having the lowest emissions and Group 4 facilities having the highest emissions.

Regardless of the individual grain elevator's emissions, the Department is requiring that an owner or operator of a grain elevator apply best management practices (BMP) and comply with the fugitive dust standard. The Department is also requiring that an owner or operator of a grain elevator comply with the emissions controls specified in required construction permits. Application of BMP and the emissions control specified in the required construction permits will serve to protect the ambient air, and will minimize the impact of emissions from each facility.

In response to comments, the Department made changes to the registration for Group 1 facilities and permit application form for Group 2 facilities. These changes consist of necessary corrections and clarifications and are explained in detail in the responsiveness summary. The Department also clarified in these forms and in the rules that the owner or operator of existing Group 1 or 2 grain elevators shall fully implement applicable BMP no later than March 31, 2009. The owner or operator of a new Group 1 or 2 facilities shall fully implement applicable BMP upon start-up of equipment at the facility.

The Department made a number of changes to the BMP manual in response to public comments. These changes consist of necessary corrections and clarifications and are explained in detail in the Department's responsiveness summary.

The Department received comments from the EPA, requesting that the Department clarify that it has the authority to perform an air quality analysis on a Group 2 facility, as necessary, to ensure that the National Ambient Air Quality Standards (NAAQS) are sufficiently protected. The Department may, as necessary, evaluate the emissions from a Group 2 facility to ensure that the emissions, in conjunction with all other emissions, will not result in exceedances of the NAAQS. The proposed rules for Group 2 facilities published in the Notice do not prohibit the Department from conducting an air quality analysis. Therefore, no change to the adopted rules is needed to address this comment.

Emission Limit Changes: This rulemaking also amends subrule 23.4(7) to specify a new particulate matter emission limit for bin vents located at country grain elevators, country grain terminal elevators, and grain terminal elevators. The majority of the grain elevator bin vents have been operated uncontrolled since the bins were constructed. Available particulate matter emissions testing data reviewed by the Department for grain elevator bin vents affected by this rulemaking indicates that a representative level of uncontrolled particulate matter emissions from a grain elevator bin vent is 1.0 grain per dry standard cubic foot (gr/dscf) of exhaust gas. Because of the ambiguous status of the regulatory requirements for existing bin vents during the period that state statute limited the Department's authority to regulate grain elevators, the Department is allowing particulate matter emissions from existing grain elevator bin vents affected by this rulemaking to continue to meet a 1.0 gr/dscf of exhaust gas emission limit.

The 0.1 gr/dscf of exhaust gas emission limit was in place prior to the statute that limited the Department's authority to regulate grain elevators. Construction of new bins at other facilities with throughputs similar to those of country grain terminal elevators and grain terminal elevators has shown that emissions of particulate matter from the new bins can be controlled to meet the existing 0.1 gr/dscf of exhaust gas emission limit. This rule reaffirms that particulate matter emissions from new bin vents at a country grain terminal elevator or grain terminal elevator can be reasonably controlled to the 0.1 gr/dscf of exhaust gas emission limit but that retrofitting of controls on existing bin vents is impractical due to safety and cost concerns.

EPA commented that the change in the emission limit for bin vents (from 0.1 to 1.0 gr/dscf) constitutes a significant relaxation of the current rule. EPA requested that the Department provide a detailed air quality analyses for the change, including a discussion of the anticipated emissions increases and air quality impacts projected as a result of the change.

Bin vent testing data obtained by the Department indicates that existing uncontrolled bin vents are already emitting at 1.0 gr/dscf. As such, the proposed change from 0.1 to 1.0 gr/dscf will not result in any actual emissions increases from these bin vents.

The threshold for the SIP approved rules for the "small unit" exemption (567 IAC 22.1(2)"w") is 5 tons per year (tpy) of particulate matter (PM) emissions. An analysis by the Department of the PM emissions from a bin vent emitting at 1.0 gr/dscf of exhaust gas showed that the PM emissions would be less than 5 tpy at a facility with 35 million bushel per year throughput rate. This throughput rate is on the upper end of the throughput range for the majority of the grain elevators that will be affected by the proposed rules.

Based on these considerations, and the fact that existing uncontrolled bin vents are already emitting at 1.0 gr/dscf of exhaust gas, the Department does not expect that this relaxation will result in a perceptible or measurable change in air quality.

The Department also received several comments from AAI recommending that the 1.0 gr/dscf be extended to all grain bin vents. A detailed summary of AAI's comments and the Department's responses is contained in the Department's responsiveness summary.

The issue in question is whether the 0.1 gr/dscf particulate standard is a reasonable emission limit for new grain bin vents. The Department has found that construction of new bins at other facilities with throughputs similar to those at country grain terminal elevators or grain terminal elevators has shown that emissions of particulate matter from the new bins can be controlled to meet the existing 0.1 gr/dscf of exhaust gas emission limit. For example, all grain bins constructed at new ethanol plants over the last few years have included particulate controls to meet this standard. Therefore, the adopted rules contain the changes to the particulate matter emission limit as the changes were proposed in the published Notice.

Submittal Requirements: Owners or operators of an existing grain elevator (constructed before February 8, 2008) may submit a registration or permit application, as applicable, on or after December 4, 2007, but must submit the appropriate registration or permit application by March 31, 2008. The owner or operator of a new grain elevator (constructed on or after February 6, 2008) must apply for and obtain the appropriate registration or permit prior to initiating construction of air emissions equipment.

An administrative rule fiscal impact statement is attached.

Jim McGraw
Environmental Program Supervisor
Program Development Section, Air Quality Bureau
Memo date: November 13, 2007

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted & Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby adopts amendments to Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 22, “Controlling Pollution,” and Chapter 23, “Emission Standards for Contaminants,” Iowa Administrative Code.

The purpose of the amendments is to modify requirements for certain types of grain elevators and to modify requirements for feed mill equipment located at certain types of grain elevators by adopting new air quality rules and clarifying existing rules. The rule making defines each type of facility and specifies for each type of facility the permitting options, emissions calculation methodology, emissions reporting and record keeping, and best management practices for controlling air pollution. A new particulate matter emissions standard for bin vents located at country grain elevators, country grain terminal elevators, and grain terminal elevators also is established through amendments to subrule 23.4(7).

Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on August 29, 2007, as ARC 6186B. Public hearings were held on September 24, September 26, and October 2, 2007, in Urbandale, Cedar Rapids, and Spencer, respectively. No oral comments were received at the public hearings. Four sets of written comments were received before the public comment period closed on October 3, 2007.

The submitted comments and the Department’s response to the comments are summarized in a responsiveness summary available from the Department.

The Department made changes to the adopted rules from what was published in the Notice in response to comments and also to make corrections and clarifications. These changes

are explained in detail in the responsiveness summary, and also are summarized in the preamble below.

Owners and operators of air pollution sources, including owners and operators of grain elevators, are required to obtain permits and meet applicable air pollution standards. However, in 1978 the Sixty-Seventh Iowa General Assembly limited the Department's ability to regulate country grain elevators (1978 Iowa Acts, chapter 1004, section 17). Since that time, the Department has not enforced the requirement that the owner or operator of a country grain elevator obtain air construction permits. However, the passage of the 1990 amendments to the federal Clean Air Act (CAA) created a new operating permit program for major sources of regulated air pollutants. As a result, the U.S. Environmental Protection Agency (EPA) required that the restrictions limiting the regulation of country grain elevators be removed to allow Iowa to have a federally approved operating permit program. In 1995, the Iowa General Assembly subsequently removed these restrictions (1995 Iowa Acts, chapter 2, section 2), and EPA granted federal approval of Iowa's operating permit program in 1995. Removal of the restrictions necessitated that the Department review and permit air emissions at hundreds of country grain elevators and other similar facilities to bring them into compliance with the air construction permitting requirements of rule 567—22.1(455B).

In an effort to minimize the regulatory burden to the owners or operators of country grain elevators while still ensuring that Iowa's air quality is protected, the Department began working with the Agribusiness Association of Iowa (AAI) to develop a streamlined mechanism for permitting. During this process, the Department discovered that more information about the grain elevator source sector in Iowa was needed to better characterize air emissions equipment and the typical operating limitations at grain elevators. This need, combined with the ongoing

uncertainty about the air quality compliance status of each individual facility, resulted in a Departmental amnesty program for grain elevators.

The Department began the amnesty program in August 2003 by asking grain elevator owners and operators to complete a registration form. Submittal of the registration form granted a facility temporary amnesty from the requirement to obtain a construction permit and temporary amnesty from the emission limits for particulate matter specified in rule 567—23.4(455B). Through the amnesty program, the Department received detailed information regarding each facility's grain throughput and the grain storage capacities and types of air emissions equipment located at each facility. In total, 838 facilities registered for the amnesty program.

Facility information from the amnesty registrations, along with information received through an unofficial survey of the permitting requirements for grain elevators in surrounding states, assisted the Department and the workgroup in developing a permitting strategy.

The proposed amendments allow grain elevators in Iowa to be regulated in a manner similar to that of surrounding states. Regardless of the individual grain elevator's emissions, the Department is requiring that an owner or operator of a grain elevator apply best management practices (BMP) and comply with the fugitive dust standard. The Department is also requiring that an owner or operator of a grain elevator comply with the emissions controls specified in required construction permits. Application of BMP and the emissions controls specified in the required construction permits will serve to protect the ambient air and will minimize the impact of emissions from each facility. This strategy includes reducing the presence of fugitive dust which has occasionally been a problem even at some of the smaller grain elevators.

Of the 838 facilities submitting registrations for the amnesty program, 793 registrations were for country grain elevators, while 45 of the registrations were for grain terminal elevators.

Equipment information for other types of grain elevators, for associated processes such as feed mill equipment, and for grain storage elevators also was included with some of the registrations submitted.

The regulatory strategy encompassed in the new rule proposed in Item 5 minimizes the burden to the owners or operators of the most common types of grain elevators in the state, while allowing the Department to focus its permitting and compliance resources on the facilities with emissions that are likely to have the greatest potential to impact human health and the environment.

Item 1 amends the definition of “country grain elevator” in rule 567—20.2(455B) to refer to the definition of “country grain elevator” in new subrule 22.10(1).

Item 2 adopts definitions of “grain processing” and “grain storage elevator” in rule 567—20.2(455B). The definition of “grain storage elevator” is derived from the definition contained in the federal New Source Performance Standards (NSPS) for grain elevators contained in 40 Code of Federal Regulations (CFR) Part 60, Subpart DD. The Department includes additional language to better distinguish grain storage elevators from other types of grain elevators. The definition of “grain processing” was developed by Department staff in conjunction with workgroup members, and is based on definitions used in nearby states. The Department proposes this definition because the proposed rules for grain elevators do not apply to a grain processing facility.

Item 3 amends the definition of “potential to emit” in rule 567—20.2(455B) to refer to the method for calculating potential to emit at country grain elevators as specified in new subrule 22.10(2).

Item 4 amends subrule 22.1(1) to adopt new paragraph “d,” specifying that alternative permitting requirements for country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment are set forth in rule 567—22.10(455B).

Item 5 adopts new rule 567—22.10(455B) that establishes air quality rules for grain elevators that are classified as country grain elevators, country grain terminal elevators, and grain terminal elevators. The new rule also includes the permitting requirements for feed mill equipment that is located at a country grain elevator, country grain terminal elevator or grain terminal elevator.

Grain processing plants and grain storage elevators are not eligible to use the provisions set forth in rule 567—22.10(455B). The Department has always required that an owner or operator of a grain processing facility obtain air construction permits for all equipment at the facility because grain processing facilities may emit air pollutants at levels that classify them as major stationary sources for the Prevention of Significant Deterioration (PSD) program and for the Title V operating permit program. Equipment at grain processing facilities also may be subject to federal New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP). Grain storage elevators are part of the grain processing operations at grain mills and soybean oil extraction plants and may be subject to federal NSPS. Grain storage elevators are not eligible to use the provisions set forth in rule 567—22.10(455B).

Rule 567—22.10(455B) contains four subrules specifying air quality requirements. The definitions applicable to rule 567—22.10(455B) are set forth in subrule 22.10(1). The methods for determining the potential emissions of particulate matter (PM) and particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM₁₀) are set forth in subrule 22.10(2).

Subrule 22.10(3) sets forth the provisions for grain elevator classification and the requirements for permits, emissions control, record keeping and reporting. Subrule 22.10(4) contains the permitting requirements for feed mill equipment located at specific types of grain elevators.

The definition of “country grain elevator” is similar to the definition that is contained in existing rules 567—20.2(455B) and 567—22.100(455B). The Department is revising the definition to better distinguish country grain elevators from other types of grain elevators.

The definition of “country grain terminal elevator” was developed by Department staff to cover grain elevators with operations that are similar to both country grain elevators and grain terminal elevators, but that do not fall into either category.

The definition of “feed mill equipment” was developed by Department staff to apply to feed mill equipment that is located at a country grain elevator, country grain terminal elevator or grain terminal elevator. A stand-alone feed mill or feed mill equipment that is not located at a country grain elevator, country grain terminal elevator or grain terminal elevator is considered to be a type of grain processing and is not included under rule 567—22.10(455B).

The definition of “grain” is the definition contained in Iowa Code section 203.1(9), which states that “grain” means any grain for which the United States Department of Agriculture has established standards including, but not limited to, corn, wheat, oats, soybeans, rye, barley, grain sorghum, flaxseeds, sunflower seed, spelt (emmer) and field peas.

The definition of “grain processing” refers to the definition specified in the amendments to 567—20.2(455B).

The definition of “grain storage elevator” refers to the definition specified in the amendments to 567—20.2(455B).

The definition of “grain terminal elevator” incorporates the definition in the grain elevator NSPS (40 CFR Part 60, Subpart DD). The Department is revising the definition to better distinguish grain terminal elevators from other types of grain elevators.

The definition of “permanent storage capacity” is the same as the definition contained in the federal grain elevator NSPS (40 CFR Part 60, Subpart DD).

Subrule 22.10(2) specifies the methods for determining the potential to emit (PTE) for PM₁₀ at country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment.

The method specified by the Department and in state rule for calculating potential emissions at country grain elevators was first published in a 1995 EPA memorandum and takes into account the seasonal throughput of country grain elevator operations. The Department has accepted the use of the EPA-developed calculation to determine PTE since 1995. The calculation method specified in subrule 22.10(2) also allows country grain elevators to account for additional control of PM and PM₁₀ emissions through BMP and other emissions control measures established in a registration or in a permit issued pursuant to subrule 22.10(3).

Proposed subrule 22.10(2) also stipulates that the owners or operators of grain terminal elevators, country grain terminal elevators and feed mill equipment shall calculate their PTE as set forth in the definition of “potential to emit” in rule 567—20.2(455B).

Some grain terminal elevators are subject to federal NSPS and have PTEs that trigger both construction and operating permitting requirements. Based on these considerations, the Department is clarifying that an owner or operator of a grain terminal elevator must calculate the PTE for each piece of emissions equipment at the facility (grain terminal elevators may not use the special facility wide PTE calculation allowed for country grain elevators). For purposes of

determining applicability for the PSD and Title V programs, fugitive emissions at sources with grain terminal elevators also must be included in PTE calculations.

The Department is aware of a small number of facilities that operate similarly to both country grain elevators and grain terminal elevators, but that do not fall into either category. This type of facility is termed “country grain terminal elevator” in proposed rule 567—22.10(455B). Because the operations and emissions at these country grain terminal elevators appear to be similar to grain terminal elevators, country grain terminal elevators also must calculate the PTE for each piece of emissions equipment at the facility.

The Department has always required an owner or operator of feed mill equipment to calculate the PTE for each piece of feed mill equipment at the facility.

Subrule 22.10(3) contains the requirements for construction permits, operating permits, emissions control, record keeping and reporting at country grain elevators, country grain terminal elevators and grain terminal elevators.

The Department estimated the grain elevators’ PTE for PM₁₀ using the information submitted on the amnesty registration forms. The Department then used the emissions thresholds typically used for permitting grain elevators in surrounding states and split the grain elevator source sector into four groups characterized by their PTE for PM₁₀. The PTE thresholds that trigger specific requirements are set at 15, 50, and 100 tons per year (tpy), as illustrated in the following table:

Grain Elevator Group	PM10 PTE (tons per year)
Group 1	<15
Group 2	≥ 15 and ≤ 50
Group 3	> 50 and < 100
Group 4	≥ 100

The requirements for permitting, emissions control, and emissions reporting and record keeping increase for facilities with a greater PTE.

Country grain elevators, country grain terminal elevators and grain terminal elevators in the lowest PTE group, termed “Group 1” in the above table and in proposed rule 567—22.10(455B), are exempt from the requirement to obtain a construction permit. However, the owner or operator of a Group 1 facility is required to submit a registration and PTE calculations, on forms supplied by the Department, certifying that the facility’s PTE for PM₁₀ is less than 15 tpy. A registration form may be obtained from the Department or downloaded from the Department’s internet Web site.

Additionally, the owner or operator of a Group 1 facility is required to use BMP for controlling air pollution and for limiting fugitive dust from crossing the property line. The owner or operator shall implement BMP according to the Department manual, "Best Management Practices (BMP) for Grain Elevators (December 2007)."

The owner or operator of a country grain elevator, country grain terminal elevator or grain terminal elevator qualifying for the Group 2 category may use a Group 2 permit application for grain elevators on forms provided by the Department in lieu of obtaining a regular construction permit. A Group 2 permit application may be obtained from the Department or downloaded from the Department’s internet Web site. The Group 2 permit for grain elevators is

a combined permit application and permit that is specific for grain elevators that meet the eligibility criteria for Group 2 facilities. The Group 2 permit application for grain elevators should be easier for an owner or operator to complete than a regular construction permit application, and is expected to streamline the permit application process for eligible facilities.

The Group 2 permit for grain elevators will specify that the owner or operator of a Group 2 facility must oil the grain at the facility, or otherwise achieve facility-wide PM₁₀ emissions reductions that are equivalent to the reductions achieved through grain oiling. Additionally, the owner or operator of a Group 2 facility must: apply BMP; keep a record of the total annual grain handled in the past five years; and calculate the annual PTE for PM₁₀. A Group 2 facility owner or operator also must submit emissions inventories to the Department as specified in subrule 21.1(3).

An owner or operator of a country grain elevator, country grain terminal elevator or grain terminal elevator that is a Group 3 facility is required to apply for and obtain air construction permits. The construction permits for these facilities may contain requirements for the installation of emissions controls that may include grain oiling or equivalent measures to meet applicable air quality emission and ambient air quality standards. Because the PTE for PM may exceed the PTE for PM₁₀, Group 3 facilities may potentially have a PTE for PM that is greater than or equal to 250 tons per year. Facilities with a PTE for PM or PM₁₀ that is greater than or equal to 250 tons per year are considered to be major stationary sources for the PSD program. Thus, the owner or operator of a Group 3 facility is required to calculate the PTE for both PM and PM₁₀ to ensure that annual emissions for both pollutants are less than 250 tons. An owner or operator of a Group 3 facility also must submit emissions inventories to the Department as specified in subrule 21.1(3).

The owner or operator of a country grain elevator, country grain terminal elevator or grain terminal elevator that is a Group 4 facility must: apply for construction permits, as applicable; apply for an operating permit, as applicable; and submit to the Department annual emissions inventories that report all regulated air pollutants. The construction and operating permits for these facilities may contain requirements for installation of emissions controls that may include grain oiling or equivalent measures to meet applicable air quality standards.

The permitting, emissions control, record-keeping and reporting requirements of each of the four groups apply even if a country grain elevator, country grain terminal elevator or grain terminal elevator did not register for the amnesty program. These requirements apply to both new and existing facilities. The owner or operator of an existing facility must submit the appropriate registration form or permit application by March 31, 2008. The owner or operator of a new facility must apply for and obtain the appropriate registration or permit prior to initiating construction of air emissions equipment.

The Department is aware that a limited number of facilities may exist that do not meet the definition of “country grain elevator,” “country grain terminal” or “grain terminal elevator.” The Department currently does not have enough information on the equipment and associated air emissions at these other types of grain elevators. Thus, owners or operators of these other types of grain elevators are not eligible to use the alternative provisions in proposed rule 567—22.10(455B) for country grain elevators, country grain terminal elevators, and grain terminal elevators.

The Department made changes to the adopted provisions for subrule 22.10(3) from what was published in the Notice. The Department also made changes to some of the forms and documents associated with the rule provisions in 22.10(3). The Department made changes in

response to comments and also to provide consistency and clarification between the rulemaking and the associated documents. The changes are described below.

In response to comments, the Department made changes to the Group 1 registration form. These changes consist of necessary corrections and clarifications and are explained in detail in the Department's responsiveness summary.

During the Department's review of the recordkeeping requirements contained in the proposed Group 1 registration form, the Department identified that the language as proposed in the Notice for subparagraph 22.10(3)"a"(1) pertaining to provisions for modifying the Group 1 registration needed to be changed to be consistent with the Group 1 registration form. Provisions to state that an owner or operator is allowed to add, remove and modify the emissions units at the facility without modifying the Group 1 registration (provided that the requirements in subparagraph 22.10(3)"a"(1), numbered paragraph "2" are met) is added to this rule.

The Department made a number of changes to the Best Management Practices (BMP) document in response to public comments. These changes consist of necessary corrections and clarifications and are explained in detail in the Department's responsiveness summary. In the adopted rules, the Department also clarified that the owner or operator of an existing Group 1 facility shall fully implement applicable BMP no later than March 31, 2009. The owner or operator of a new Group 1 facility shall fully implement applicable BMP upon start-up of equipment at the facility.

In response to comments, the Department made changes to the Group 2 permit application. These changes consist of necessary corrections and clarifications and are explained in detail in the Department's responsiveness summary. In the adopted rules and the Group 2 permit application, the Department also clarified that the owner or operator of an existing Group

2 facility shall fully implement applicable BMP no later than March 31, 2009. The owner or operator of a new Group 2 facility shall fully implement applicable BMP upon start-up of equipment at the facility.

During the Department's review of the recordkeeping requirements contained in the proposed Group 2 permit, the Department identified that the language as proposed in the Notice for subparagraph 22.10(3)"b"(1) pertaining to provisions for modifying the Group 2 permit needed to be changed to be consistent with the Group 2 permit application. The needed changes were similar to the rule changes explained above for Group 1 facilities. Specifically, changes to throughput or operations needs to be added to the provisions that state that an owner or operator is allowed to add, remove and modify the emissions units at the facility without modifying the Group 2 permit, provided that the requirements in subparagraph 22.10(3)"b"(1), numbered paragraph "1" are met. The adopted rules for Group 2 facilities include these changes.

The Department received comments from the EPA, requesting that the Department clarify that it has the authority to perform and air quality analysis on a Group 2 facility, as necessary, to ensure that the National Ambient Air Quality Standards (NAAQS) are sufficiently protected. The Department agrees that the Department may, as necessary, evaluate the emissions from a Group 2 facility to ensure that the emissions, in conjunction with all other emissions, will not result in exceedances of the NAAQS. The proposed rules for Group 2 facilities published in the Notice do not prohibit the Department from conducting an air quality analysis. Therefore, no change to the adopted rules is needed to address this comment.

AAI also raised some implementation questions regarding Group 1 and Group 2 facilities that did not require any changes to the adopted provisions in subrule 22.10(3). Specifically, AAI asked when Group 1 and Group 2 facilities could begin submitting the forms required by the new

rules, and when the Department would act on the submitted forms. These implementation issues are addressed below.

An owner or operator of a new or existing Group 1 facility may submit the registration form and accompanying PTE calculations to the Department on or after December 4, 2007 (the date the Commission approved the final rules). The registration form and PTE calculations for existing Group 1 facilities must be received by the Department on or before March 31, 2008. The registration form and PTE calculations for a new Group 1 facility must be received by the Department prior to the owner or operator initiating construction or reconstruction of the facility.

The Department will begin processing the Group 1 registrations for completeness on the effective date of the adopted rules (February 6, 2008). Therefore, complete Group 1 registrations and accompanying PTE calculations submitted to the Department prior to February 6, 2008, shall not become effective until February 6, 2008.

An owner or operator of a new or existing Group 2 facility may submit the Group 2 permit application and accompanying PTE calculations to the Department on or after December 4, 2007 (the date the Commission approved the final rules). The Group 2 permit application for an existing Group 2 facility must be received by the Department on or before March 31, 2008. A Group 2 permit for a new Group 2 facility must be issued by the Department prior to the owner or operator initiating construction or reconstruction of the facility. The Department will begin processing complete Group 2 permit applications and accompanying PTE calculations on the effective date of the adopted rules (February 6, 2008).

Subrule 22.10(4) sets forth the permitting provisions for feed mill equipment that is located at a country grain elevator, country grain terminal elevator or grain terminal elevator. The Department has always required that feed mills obtain construction permits. However,

through the amnesty program and workgroup proceedings, the Department learned that feed mill equipment may be located at grain elevators and that the owners and operators of this equipment may not have obtained the required construction permits. The provisions set forth in subrule 22.10(4) provide an opportunity for the owners and operators of feed mill equipment that is located at a country grain elevator, country grain terminal elevator or grain terminal elevator to apply for the required construction permits and, if applicable, to comply with the requirements under the PSD and operating permit programs. The Department did not make any changes to the adopted provisions for subrule 22.10(4) from what was published in the Notice.

The Department also received comments from AAI regarding the need for some grain elevators to obtain construction permits. Specifically, AAI questioned whether grain elevators constructed prior to 1970 to obtain construction permits. AAI also questioned the need for construction permits for grain elevators that were constructed during the time period that the Iowa General Assembly restricted the Department's ability to regulate grain elevators (1978-1995).

As explained in the Department's responsiveness summary, air emission sources constructed prior to September 23, 1970 are not required to have air construction permits (subrule 22.1(1)). Any modifications made to these air emission sources after this date require air construction permits. Item 4, as proposed in the Notice and in the adopted rules gives grain elevator owners or operators the option to comply with the requirements specified in rule 22.10 instead of obtaining construction permits as required in subrule 22.1(1). These provisions do not require owners or operators of air emission sources constructed prior to September 23, 1970 to obtain air construction permits unless the owner or operator elects to do so.

Additionally, when the Iowa General Assembly lifted the regulatory restrictions on grain elevators in 1995, the General Assembly did not prohibit the Department from requiring grain elevators constructed or modified during the restriction period to obtain the required air construction permits. As such, the streamlined construction permitting mechanism set forth in the adopted rules is intended to create a level playing field for all grain elevators in the state.

Item 6 amends the definition of “country grain elevator” in rule 567—22.100(455B) to refer to the definition of “country grain elevator” in new rule 567—22.10(455B).

Item 7 amends the definition of “potential to emit” in rule 567—22.100(455B) to refer to the method for calculating potential to emit for country grain elevators as specified in new subrule 22.10(2).

Item 8 amends subrule 23.4(7) to specify a new particulate matter emission limit for bin vents located at country grain elevators, country grain terminal elevators, and grain terminal elevators.

The Department’s August 2003 amnesty program included temporary amnesty from the emission limits for particulate matter specified in rule 567—23.4(455B). Bin vent information obtained from the facilities that registered for the amnesty program indicated that the majority of the grain elevator bin vents affected by this rule making have been operated uncontrolled since the bins were constructed. Available particulate matter emissions testing data reviewed by the Department for grain elevator bin vents affected by this rule making indicate that a representative level of uncontrolled particulate matter emissions from a grain elevator bin vent is 1.0 grain per dry standard cubic foot (gr/dscf) of exhaust gas. Because of the ambiguous status of the regulatory requirements for existing bin vents during the period that the state statute limited the Department’s authority to regulate grain elevators, the Department is allowing particulate

matter emissions from existing grain elevator bin vents affected by this rule making to continue to meet a 1.0 gr/dscf of exhaust gas emission limit.

The 0.1 gr/dscf of exhaust gas emission limit was in place before the statute that limited the Department's authority to regulate grain elevators existed. Construction of new bins at other facilities with throughputs similar to those at country grain terminal elevators and grain terminal elevators has shown that emissions of particulate matter from the new bins can be controlled to meet the existing 0.1 gr/dscf of exhaust gas emission limit. The amendment to subrule 23.4(7) reaffirms that particulate matter emissions from new bin vents at a country grain terminal elevator or grain terminal elevator can be reasonably controlled to the 0.1 gr/dscf of exhaust gas emission limit but that retrofitting of controls on existing bin vents is impractical due to safety and cost concerns.

During the public comment period on the Notice, EPA commented that the change in the emission limit for bin vents (from 0.1 to 1.0 gr/dscf) constitutes a significant relaxation of the current rule. EPA requested that the Department provide a detailed air quality analyses for the change, including a discussion of the anticipated emissions increases and air quality impacts projected as a result of the change.

Bin vent testing data obtained by the Department indicates that existing uncontrolled bin vents are already emitting at 1.0 gr/dscf. As such, the proposed change from 0.1 to 1.0 gr/dscf will not result in any actual emissions increases from these bin vents.

The threshold for the SIP approved rules for the "small unit" exemption (567 IAC 22.1(2)"w") is 5 tons per year (tpy) of particulate matter (PM) emissions. An analysis by the Department of the PM emissions from a bin vent emitting at 1.0 gr/dscf of exhaust gas showed that the PM emissions would be less than 5 tpy at a facility with 35 million bushel per year

throughput rate. This throughput rate is on the upper end of the throughput range for the majority of the grain elevators that will be affected by the proposed rules.

The conservative air quality screening analysis completed to support the technical validity of the small unit exemption indicated that a minimum stack height of 20 feet above grade was necessary to be protective of the PM₁₀ NAAQS when PM₁₀ emissions (assuming that all PM was PM₁₀) were set at 5 tpy. The release height for the majority of the bin vents currently in operation is well over 20 feet. Based on these considerations, and the fact that existing uncontrolled bin vents are already emitting at 1.0 gr/dscf of exhaust gas, the Department does not expect that this relaxation will result in a perceptible or measurable change in air quality.

The Department also received several comments from AAI recommending that the 1.0 gr/dscf be extended to all grain bin vents. A detailed summary of AAI's comments and the Department's responses is contained in the Department's responsiveness summary.

The issue in question is whether the 0.1 gr/dscf particulate standard is a reasonable emission limit for new grain bin vents. The Department has found that construction of new bins at other facilities with throughputs similar to those at country grain terminal elevators or grain terminal elevators has shown that emissions of particulate matter from the new bins can be controlled to meet the existing 0.1 gr/dscf of exhaust gas emission limit. For example, all grain bins constructed at new ethanol plants over the last few years have included particulate controls to meet this standard. Therefore, the adopted rules contain the changes to the particulate matter emission limit as the changes were proposed in the published Notice.

These amendments are intended to implement Iowa Code section 455B.133.

The following amendments are adopted. The adopted amendments become effective on February 6, 2008.

ITEM 1. Amend rule **567—20.2(455B)**, definition of “country grain elevator,” as follows:

“Country grain elevator” ~~means any grain elevator that receives more than 50 percent of its grain, as defined by 40 CFR 60.301(a) as amended through August 3, 1978, produced by farms in the vicinity. This definition does not include grain terminal elevators or grain storage elevators, as defined in paragraph 23.1(2)“ooo.”~~ shall have the same definition as “country grain elevator” set forth in 567—subrule 22.10(1).

ITEM 2. Amend rule **567—20.2(455B)** by adopting the following **new** definitions in alphabetical order:

“Grain processing” means the equipment, or the combination of different types of equipment, used in the processing of grain to produce a product primarily for wholesale or retail sale for human or animal consumption, including the processing of grain for production of biofuels, except for “feed mill equipment,” as “feed mill equipment” is defined in rule 567—22.10(455B).

“Grain storage elevator” means any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded and that is located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant which has a permanent grain storage capacity (grain storage capacity which is inside a building, bin, or silo) of more than 35,200 m³ (ca. 1 million U.S. bushels).

ITEM 3. Amend rule **567—20.2(455B)**, definition of “potential to emit,” introductory and first unnumbered paragraphs, as follows:

“Potential to emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term “capacity factor” as used in Title IV of the Act or the regulations relating to acid rain.

For the purpose of determining potential to emit for country grain elevators, ~~“maximum capacity” means the greatest amount of grain received by the elevator during one year of the previous five year period, multiplied by an adjustment factor of 1.2. If the source is subject to new source construction permit review, then potential to emit is defined as stated above or as established in a federally enforceable permit~~ the provisions set forth in 567—subrule 22.10(2) shall apply.

ITEM 4. Amend subrule **22.1(1)** by adopting new paragraph “**d**” as follows:

d. Permit requirements for country grain elevators, country grain terminal elevators, grain terminal elevators, and feed mill equipment. The owner or operator of a country grain elevator, country grain terminal elevator, grain terminal elevator or feed mill equipment, as “country grain elevator,” “country grain terminal elevator,” “grain terminal elevator,” and “feed mill equipment” are defined in subrule 22.10(1), may elect to comply with the requirements specified in rule 567—22.10(455B) for equipment at these facilities.

ITEM 5. Amend 567—Chapter 22 by adopting new rule 567—22.10(455B) as follows:

567—22.10(455B) Permitting requirements for country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment. The requirements of this rule apply only to country grain elevators, country grain terminal elevators, grain terminal elevators and feed mill equipment, as these terms are defined in subrule 22.10(1). The requirements of this rule do not apply to equipment located at grain processing plants or grain storage elevators, as “grain processing” and “grain storage elevator” are defined in rule 567—20.2(455B). Compliance with the requirements of this rule does not alleviate any affected person’s duty to comply with any applicable state or federal regulations. In particular, the emission standards set forth in 567—Chapter 23, including the regulations for grain elevators contained in 40 CFR Part 60, Subpart DD (as adopted by reference in 567—paragraph 23.1(2)“ooo”), may apply.

22.10(1) Definitions. For purposes of rule 567—22.10(455B), the following terms shall have the meanings indicated in this subrule.

“Country grain elevator” means any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded and which meets the following criteria:

1. Receives more than 50 percent of its grain, as “grain” is defined in this subrule, from farmers in the immediate vicinity during harvest season;
2. Is not located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant.

“Country grain terminal elevator” means any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded and which meets the following criteria:

1. Receives 50 percent or less of its grain, as “grain” is defined in this subrule, from farmers in the immediate vicinity during harvest season;

2. Has a permanent storage capacity of less than or equal to 2.5 million U.S. bushels, as “permanent storage capacity” is defined in this subrule;

3. Is not located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant.

“Feed mill equipment,” for purposes of rule 567—22.10(455B), means grain processing equipment that is used to make animal feed including, but not limited to, grinders, crackers, hammermills, and pellet coolers, and that is located at a country grain elevator, country grain terminal elevator or grain terminal elevator.

“Grain,” as set forth in Iowa Code section 203.1(9), means any grain for which the United States Department of Agriculture has established standards including, but not limited to, corn, wheat, oats, soybeans, rye, barley, grain sorghum, flaxseeds, sunflower seed, spelt (emmer), and field peas.

“Grain processing” shall have the same definition as “grain processing” set forth in rule 567—20.2(455B).

“Grain storage elevator” shall have the same definition as “grain storage elevator” set forth in rule 567—20.2(455B).

“Grain terminal elevator,” for purposes of rule 567—22.10(455B), means any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded and which meets the following criteria:

1. Receives 50 percent or less of its grain, as “grain” is defined in this subrule, from farmers in the immediate vicinity during harvest season;

2. Has a permanent storage capacity of more than 88,100 m³ (2.5 million U.S. bushels), as “permanent storage capacity” is defined in this subrule;

3. Is not located at an animal food manufacturer, pet food manufacturer, cereal manufacturer, brewery, or livestock feedlot;

4. Is not located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean oil extraction plant.

“Permanent storage capacity” means grain storage capacity which is inside a building, bin, or silo.

22.10(2) Methods for determining potential to emit (PTE). The owner or operator of a country grain elevator, country grain terminal elevator, grain terminal elevator or feed mill equipment shall use the following methods for calculating the potential to emit (PTE) for particulate matter (PM) and for particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM₁₀).

a. Country grain elevators. The owner or operator of a country grain elevator shall calculate the PTE for PM and PM₁₀ as specified in the definition of “potential to emit” in rule 567—20.2(455B), except that “maximum capacity” means the greatest amount of grain received at the country grain elevator during one calendar, 12-month period of the previous five calendar, 12-month periods, multiplied by an adjustment factor of 1.2. The owner or operator may make additional adjustments to the calculations for air pollution control of PM and PM₁₀ if the owner or operator submits the calculations to the department using the PTE calculation tool provided by the department, and only if the owner or operator fully implements the applicable air pollution control measures no later than March 31, 2009, or upon start-up of the equipment, whichever event first occurs. Credit for the application of some best management practices, as specified in subrule 22.10(3) or in a permit issued by the department, may also be used to make additional adjustments in the PTE for PM and PM₁₀ if the owner or operator submits the calculations to the

department using the PTE calculation tool provided by the department, and only if the owner or operator fully implements the applicable best management practices no later than March 31, 2009, or upon start-up of the equipment, whichever event first occurs.

b. Country grain terminal elevators. The owner or operator of a country grain terminal elevator shall calculate the PTE for PM and PM₁₀ as specified in the definition of “potential to emit” in rule 567—20.2(455B).

c. Grain terminal elevators. For purposes of the permitting and other requirements specified in subrule 22.10(3), the owner or operator of a grain terminal elevator shall calculate the PTE for PM and PM₁₀ as specified in the definition of “potential to emit” in rule 567—20.2(455B). For purposes of determining whether the stationary source is subject to the prevention of significant deterioration (PSD) requirements set forth in 567—Chapter 33, or for determining whether the source is subject to the operating permit requirements set forth in rules 567—22.100(455B) through 567—22.300(455B), the owner or operator of a grain terminal elevator shall include fugitive emissions, as “fugitive emissions” is defined in 567—subrule 33.3(1) and in rule 567—22.100(455B), in the PTE calculation.

d. Feed mill equipment. The owner or operator of feed mill equipment, as “feed mill equipment” is defined in subrule 22.10(1), shall calculate the PTE for PM and PM₁₀ for the feed mill equipment as specified in the definition of “potential to emit” in rule 567—20.2(455B). For purposes of determining whether the stationary source is subject to the prevention of significant deterioration (PSD) requirements set forth in 567—Chapter 33, or for determining whether the stationary source is subject to the operating permit requirements set forth in rules 567—22.100(455B) through 567—22.300(455B), the owner or operator of feed mill equipment shall

sum the PTE of the feed mill equipment with the PTE of the country grain elevator, country grain terminal elevator or grain terminal elevator.

22.10(3) Classification and requirements for permits, emissions control, record keeping and reporting for Group 1, Group 2, Group 3 and Group 4 grain elevators. The requirements for construction permits, operating permits, emissions control, record keeping and reporting for a stationary source that is a country grain elevator, country grain terminal elevator or grain terminal elevator are set forth in this subrule.

a. Group 1 facilities. A country grain elevator, country grain terminal elevator or grain terminal elevator may qualify as a Group 1 facility if the PTE at the stationary source is less than 15 tons of PM₁₀ per year, as PTE is specified in subrule 22.10(2). For purposes of this paragraph, an “existing” Group 1 facility is one that commenced construction or reconstruction before February 6, 2008. A “new” Group 1 facility is one that commenced construction or reconstruction on or after February 6, 2008.

(1) Group 1 registration. The owner or operator of a Group 1 facility shall submit to the department a Group 1 registration, including PTE calculations, on forms provided by the department, certifying that the facility’s PTE is less than 15 tons of PM₁₀ per year. The owner or operator of an existing facility shall provide the Group 1 registration to the department on or before March 31, 2008. The owner or operator of a new facility shall provide the Group 1 registration to the department prior to initiating construction or reconstruction of a facility. The registration becomes effective upon the department’s receipt of the signed registration form and the PTE calculations.

1. If the owner or operator registers with the department as specified in subparagraph 22.10(3)“a”(1), the owner or operator is exempt from the requirement to obtain a construction permit as specified under subrule 22.1(1).

2. Upon department receipt of a Group 1 registration and PTE calculations, the owner or operator is allowed to add, remove and modify the emissions units or change throughput or operations at the facility without modifying the Group 1 registration, provided that the owner or operator calculates the PTE for PM₁₀ on forms provided by the department prior to making any additions to, removals of or modifications to equipment, and only if the facility continues to meet the emission limits and operating limits (including restrictions on material throughput and hours of operation, if applicable, as specified in the PTE for PM₁₀ calculations) specified in the Group 1 registration.

3. If equipment at a Group 1 facility currently has an air construction permit issued by the department, that permit shall remain in full force and effect, and the permit shall not be invalidated by the subsequent submittal of a registration made pursuant to subparagraph 22.10(3)“a”(1).

(2) Best management practices (BMP). The owner or operator of a Group 1 facility shall implement best management practices (BMP) for controlling air pollution at the facility and for limiting fugitive dust at the facility from crossing the property line. The owner or operator shall implement best management practices according to the department manual, Best Management Practices (BMP) for Grain Elevators (December 2007), as adopted by the commission on December 4, 2007, and adopted by reference herein (available from the department, upon request, and on the department’s internet Web site. No later than March 31, 2009, the owner or operator of an existing Group 1 facility shall fully implement applicable

BMP. Upon start-up of equipment at the facility, the owner or operator of a new Group 1 facility shall fully implement applicable BMP.

(3) Record keeping. The owner or operator of a Group 1 facility shall retain a record of the previous five calendar years of total annual grain handled and shall calculate the facility's potential PM₁₀ emissions annually by January 31 for the previous calendar year. These records shall be kept on site for a period of five years and shall be made available to the department upon request.

(4) Emissions increases. The owner or operator of a Group 1 facility shall calculate any emissions increases prior to making any additions, removals or modifications to equipment. If the owner or operator determines that PM₁₀ emissions at a Group 1 facility will increase to 15 or more tons per year, the owner or operator shall comply with the requirements set forth for Group 2, Group 3 or Group 4 facilities, as applicable, prior to making any additions to, removals of or modifications to equipment.

(5) Changes to facility classification or permanent grain storage capacity. If the owner or operator of a Group 1 facility plans to change the facility's operations or increase the facility's permanent grain storage capacity to more than 2.5 million U.S. bushels, the owner or operator, prior to making any changes, shall reevaluate the facility's classification and the allowed method for calculating PTE to determine if any increases to the PTE for PM₁₀ will occur. If the proposed change will alter the facility's classification or will increase the facility's PTE for PM₁₀ such that the facility PTE increases to 15 or more tons per year, the owner or operator shall comply with the requirements set forth for Group 2, Group 3 or Group 4 facilities, as applicable, prior to making the change.

b. Group 2 facilities. A country grain elevator, country grain terminal elevator or grain terminal elevator may qualify as a Group 2 facility if the PTE at the stationary source is greater than or equal to 15 tons of PM₁₀ per year and is less than or equal to 50 tons of PM₁₀ per year, as PTE is specified in subrule 22.10(2). For purposes of this paragraph, an “existing” Group 2 facility is one that commenced construction, modification or reconstruction before [effective date of rule to be inserted]. A “new” Group 2 facility is one that commenced construction or reconstruction on or after [effective date of rule to be inserted].

(1) Group 2 permit for grain elevators. The owner or operator of a Group 2 facility may, in lieu of obtaining air construction permits for each piece of emissions equipment at the facility, submit to the department a completed Group 2 permit application for grain elevators, including PTE calculations, on forms provided by the department. Alternatively, the owner or operator may obtain an air construction permit as specified under subrule 22.1(1). The owner or operator of an existing facility shall provide the appropriate completed Group 2 permit application for grain elevators or the appropriate construction permit applications to the department on or before March 31, 2008. The owner or operator of a new facility shall provide the appropriate, completed Group 2 permit application for grain elevators or the appropriate construction permit applications to the department prior to initiating construction or reconstruction of a facility.

1. Upon department issuance of a Group 2 permit to a facility, the owner or operator is allowed to add, remove and modify the emissions units at the facility, or change throughput or operations, without modifying the Group 2 permit, provided that the owner or operator calculates the PTE for PM₁₀ prior to making any additions to, removals of or modifications to equipment, and only if the facility continues to meet the emission limits and operating limits (including

restrictions on material throughput and hours of operation, if applicable, as specified in the PTE for PM₁₀ calculations) specified in the Group 2 permit.

2. If a Group 2 facility currently has an air construction permit issued by the department, that permit shall remain in full force and effect, and the permit shall not be invalidated by the subsequent submittal of a Group 2 permit application for grain elevators made pursuant to this rule. However, the owner or operator of a Group 2 facility may request that the department incorporate any equipment with a previously issued construction permit into the Group 2 permit for grain elevators. The department will grant such requests on a case-by-case basis. If the department grants the request to incorporate previously permitted equipment into the Group 2 permit for grain elevators, the owner or operator of the Group 2 facility is responsible for requesting that the department rescind any previously issued construction permits.

(2) Best management practices (BMP). The owner or operator shall implement BMP, as specified in the Group 2 permit, for controlling air pollution at the source and for limiting fugitive dust at the source from crossing the property line. If the department revises the BMP requirements for Group 2 facilities after a facility is issued a Group 2 permit, the owner or operator of the Group 2 facility may request that the department modify the facility's Group 2 permit to incorporate the revised BMP requirements. The department will issue permit modifications to incorporate BMP revisions on a case-by-case basis. No later than March 31, 2009, the owner or operator of an existing Group 2 facility shall fully implement BMP, as specified in the Group 2 permit. Upon start-up of equipment at the facility, the owner or operator of a new Group 2 facility shall fully implement BMP, as specified in the Group 2 permit,

(3) Record keeping. The owner or operator of a Group 2 facility shall retain all records as specified in the Group 2 permit.

(4) Emissions inventory. The owner or operator of a Group 2 facility shall submit an emissions inventory for the facility for all regulated air pollutants as specified under 567—subrule 21.1(3).

(5) Emissions increases. The owner or operator of a Group 2 facility shall calculate any emissions increases prior to making any additions to, removals of or modifications to equipment. If the owner or operator determines that potential PM₁₀ emissions at a Group 2 facility will increase to more than 50 tons per year, the owner or operator shall comply with the requirements set forth for Group 3 or Group 4 facilities, as applicable, prior to making any additions to, removals of or modifications to equipment.

(6) Changes to facility classification or permanent grain storage capacity. If the owner or operator of a Group 2 facility plans to change the facility's operations or increase the facility's permanent grain storage capacity to more than 2.5 million U.S. bushels, the owner or operator, prior to making any changes, shall reevaluate the facility's classification and the allowed method for calculating PTE to determine if any increases to the PTE for PM₁₀ will occur. If the proposed change will increase the facility's PTE for PM₁₀ such that the facility PTE increases to more than 50 tons per year, the owner or operator shall comply with the requirements set forth for Group 3 or Group 4 facilities, as applicable, prior to making the change.

c. Group 3 facilities. A country grain elevator, country grain terminal elevator or grain terminal elevator may qualify as a Group 3 facility if the PTE for PM₁₀ at the stationary source is greater than 50 tons per year, but is less than 100 tons of PM₁₀ per year, as PTE is

specified in subrule 22.10(2). For purposes of this paragraph, an “existing” Group 3 facility is one that commenced construction, modification or reconstruction before [effective date of rule to be inserted]. A “new” Group 3 facility is one that commenced construction or reconstruction on or after [effective date of rule to be inserted].

(1) Air construction permit. The owner or operator of a Group 3 facility shall obtain the required construction permits as specified under subrule 22.1(1). The owner or operator of an existing facility shall provide the construction permit applications, as specified in subrule 22.1(3) to the department on or before March 31, 2008. The owner or operator of a new facility shall obtain the required permits, as specified in subrule 22.1(1), from the department prior to initiating construction or reconstruction of a facility.

(2) Permit conditions. Construction permit conditions for a Group 3 facility shall include, but are not limited to, the following:

1. The owner or operator shall implement BMP, as specified in the permit, for controlling air pollution at the source and for limiting fugitive dust at the source from crossing the property line. If the department revises the BMP requirements for Group 3 facilities after a facility is issued a permit, the owner or operator of the Group 3 facility may request that the department modify the facility’s permit to incorporate the revised BMP requirements. The department will issue permit modifications to incorporate BMP revisions on a case-by-case basis.

2. The owner or operator shall retain all records as specified in the permit.

(3) Emissions inventory. The owner or operator shall submit an emissions inventory for the facility for all regulated air pollutants as specified under 567—subrule 21.1(3).

(4) Changes to facility classification or permanent grain storage capacity. If the owner or operator of a Group 3 facility plans to change its operations or increase the facility's permanent grain storage capacity to more than 2.5 million U.S. bushels, the owner or operator, prior to making any changes, shall reevaluate the facility's classification and the allowed method for calculating PTE to determine if any increases to the PTE for PM₁₀ will occur. If the proposed change will alter the facility's classification or will increase the facility's PTE for PM₁₀ such that the facility PTE increases to greater than or equal to 100 tons per year, the owner or operator shall comply with the requirements set forth for Group 4 facilities, as applicable, prior to making the change.

(5) PSD applicability. If the PTE for PM or PM₁₀ at the Group 3 facility is greater than or equal to 250 tons per year, the owner or operator shall comply with requirements specified in 567—Chapter 33, as applicable. The owner or operator of a Group 3 facility that is a grain terminal elevator shall include fugitive emissions, as “fugitive emissions” is defined in 567—subrule 33.3(1), in the PTE calculation for determining PSD applicability.

(6) Record keeping. The owner or operator shall keep the records of annual grain handled at the facility and annual PTE for PM and PM₁₀ emissions on site for a period of five years, and the records shall be made available to the department upon request.

d. Group 4 facilities. A facility qualifies as a Group 4 facility if the facility is a stationary source with a PTE equal to or greater than 100 tons of PM₁₀ per year, as PTE is specified in subrule 22.10(2). For purposes of this paragraph, an “existing” Group 4 facility is one that commenced construction, modification or reconstruction before [effective date of rule to be inserted]. A “new” Group 4 facility is one that commenced construction or reconstruction on or after [effective date of rule to be inserted].

(1) Air construction permit. The owner or operator of a Group 4 facility shall obtain the required construction permits as specified under subrule 22.1(1). The owner or operator of an existing facility shall provide the construction permit applications, as specified by subrule 22.1(3) to the department on or before March 31, 2008. The owner or operator of a new facility shall obtain the required permits, as specified by subrule 22.1(1), from the department prior to initiating construction or reconstruction of a facility.

(2) Permit conditions. Construction permit conditions for a Group 4 facility shall include, but are not limited to, the following:

1. The owner or operator shall implement BMP, as specified in the permit, for controlling air pollution at the facility and for limiting fugitive dust at the facility from crossing the property line. If the department revises the BMP requirements for Group 4 facilities after a facility is issued a permit, the owner or operator of the Group 4 facility may request that the department modify the facility's permit to incorporate the revised BMP requirements. The department will issue permit modifications to incorporate BMP revisions on a case-by-case basis.

2. The owner or operator shall retain all records as specified in the permit.

(3) PSD applicability. If the PTE for PM or PM₁₀ or at the facility is equal to or greater than 250 tons per year, the owner or operator shall comply with requirements specified in 567—Chapter 33, as applicable. The owner or operator of a Group 4 facility that is a grain terminal elevator shall include fugitive emissions, as “fugitive emissions” is defined in subrule 33.3(1), in the PTE calculation for determining PSD applicability.

(4) Record keeping. The owner or operator shall keep the records of annual grain handled at the facility and annual PTE for PM and PM₁₀ emissions on site for a period of five years, and the records shall be made available to the department upon request.

(5) Operating permits. The owner or operator of a Group 4 facility shall apply for an operating permit for the facility if the facility's annual PTE for PM₁₀ is equal to or greater than 100 tons per year as specified in rules 567—22.100(455B) through 567—22.300(455B). The owner or operator of a Group 4 facility that is a grain terminal elevator shall include fugitive emissions in the calculations to determine if the PTE for PM₁₀ is greater than or equal to 100 tons per year. The owner or operator also shall submit annual emissions inventories and fees, as specified in rule 567—22.106(455B).

22.10(4) Feed mill equipment. This subrule sets forth the requirements for construction permits, operating permits, and emissions inventories for an owner or operator of feed mill equipment as “feed mill equipment” is defined in subrule 22.10(1). For purposes of this subrule, the owner or operator of “existing” feed mill equipment shall have commenced construction or reconstruction of the feed mill equipment before [effective date of rule to be inserted]. The owner or operator of “new” feed mill equipment shall have commenced construction or reconstruction of the feed mill equipment on or after [effective date of rule to be inserted].

a. Air construction permit. The owner or operator of feed mill equipment shall obtain an air construction permit as specified under subrule 22.1(1) for each piece of feed mill equipment that emits a regulated air pollutant. The owner or operator of “existing” feed mill equipment shall provide the appropriate permit applications to the department on or before March 31, 2008. The owner or operator of “new” feed mill equipment shall provide the

appropriate permit applications to the department prior to initiating construction or reconstruction of feed mill equipment.

b. Emissions inventory. The owner or operator shall submit an emissions inventory for the feed mill equipment for all regulated air pollutants as specified under 567—subrule 21.1(3).

c. Operating permits. The owner or operator shall sum the PTE of the feed mill equipment with the PTE of the equipment at the country grain elevator, country grain terminal elevator or grain terminal elevator, as PTE is specified in subrule 22.10(2), to determine if operating permit requirements specified in rules 567—22.100(455B) through 567—22.300(455B) apply to the stationary source. If the operating permit requirements apply, then the owner or operator shall apply for an operating permit as specified in rules 567—22.100(455B) through 567—22.300(455B). The owner or operator also shall begin submitting annual emissions inventories and fees, as specified under rule 567—22.106(455B).

d. PSD applicability. For purposes of determining whether the stationary source is subject to the prevention of significant deterioration (PSD) requirements set forth in 567—Chapter 33, the owner or operator shall sum the PTE of the feed mill equipment with the PTE of the equipment at the country grain elevator, country grain terminal elevator or grain terminal elevator. If the PTE for PM or PM₁₀ for the stationary source is equal to or greater than 250 tons per year, the owner or operator shall comply with requirements for PSD specified in 567—Chapter 33, as applicable.

ITEM 6. Amend rule **567—22.100(455B)**, definition of “country grain elevator,” as follows:

~~“Country grain elevator” means any grain elevator that receives more than 50 percent of its grain, as defined by 40 CFR 60.301(a) as amended through August 3, 1978, produced by farms in the vicinity. This definition does not include grain terminal elevators or pertain to grain storage elevators, as defined in paragraph 23.1(2)“ooo.”~~ shall have the same definition as “country grain elevator” set forth in subrule 22.10(1).

ITEM 7. Amend rule ~~567—22.100(455B)~~, definition of “potential to emit,” introductory and first unnumbered paragraphs, as follows:

“Potential to emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term “capacity factor” as used in Title IV of the Act or the regulations relating to acid rain.

For the purpose of determining potential to emit for country grain elevators, ~~“maximum capacity” means the greatest amount of grain received by the elevator during one year of the previous five year period, multiplied by an adjustment factor of 1.2. If the source is subject to new source construction permit review, then potential to emit is defined as stated above or as established in a federally enforceable permit~~ the provisions set forth in subrule 22.10(2) shall apply.

ITEM 8. Amend subrule 23.4(7) as follows:

23.4(7) Grain handling and processing plants. ~~No person shall cause, allow or permit the operation~~ The owner or operator of equipment at a permanent installation, for the handling or processing of grain, grain products and grain by-products ~~such that~~ shall not cause, allow or permit the particulate matter discharged to the atmosphere to exceed 0.1 grain per dry standard cubic foot of exhaust gas, except as follows:

a. The particulate matter discharged to the atmosphere from a grain bin vent at a country grain elevator, as “country grain elevator” is defined in 567—subrule 22.10(1), shall not exceed 1.0 grain per dry standard cubic foot of exhaust gas.

b. The particulate matter discharged to the atmosphere from a grain bin vent that was constructed, modified or reconstructed before March 31, 2008, at a country grain terminal elevator, as “country grain terminal elevator” is defined in 567—subrule 22.10(1), or at a grain terminal elevator, as “grain terminal elevator” is defined in subrule 567—22.10(1), shall not exceed 1.0 grain per dry standard cubic foot of exhaust gas.

c. The particulate matter discharged to the atmosphere from a grain bin vent that is constructed or reconstructed on or after March 31, 2008, at a country grain terminal elevator, as “country grain terminal elevator” is defined in 567—subrule 22.10(1), or at a grain terminal elevator, as “grain terminal elevator” is defined in 567—subrule 22.10(1), shall not exceed 0.1 grain per dry standard cubic foot of exhaust gas.

Date

Richard A. Leopold, Director

Administrative Rule Fiscal Impact Statement

Date: 8-1-07

Agency: Department of Natural Resources
IAC Citation: 567 IAC Chapter 20, 22 and 23
Agency Contact: Anne Preziosi

Summary of the Rule: The purpose of the proposed rule changes is to establish new air quality rules for grain elevators. The proposed rulemaking adds new rule 567—22.10(455B) with special requirements for these facilities. The proposed rule defines each type of facility, and also specifies for each type of facility the permitting options, emissions calculation methodology, emissions reporting and record keeping, and best management practices for controlling air pollution. A new particulate matter emission standard will also be established for bin vents located at specific types of grain elevators through amendments to subrule 23.4(7).

Fill in this box if the impact meets these criteria:

- ☒ No Fiscal Impact to the State.
☐ Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.
☐ Fiscal Impact cannot be determined.

Brief Explanation:

Rule changes will not affect expenditures or revenues to the state.

Fill in the form below if the impact does not fit the criteria above:

☐ Fiscal Impact of \$100,000 annually or \$500,000 over 5 years.

* Fill in the rest of the Fiscal Impact Statement form.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY)</u>	<u>Year 2 (FY)</u>
Revenue by Each Source:		
GENERAL FUND		
FEDERAL FUNDS		
Other (specify)		
<i>TOTAL REVENUE</i>	<hr/>	<hr/>
Expenditures:		
GENERAL FUND		
FEDERAL FUNDS		
Other (specify)		
<i>TOTAL EXPENDITURES</i>	<hr/>	<hr/>
<i>NET IMPACT</i>		

 X This rule is required by State law or Federal mandate.

Please identify the state or federal law:

Iowa Code section 455B.133, as implemented in 567 IAC Chapters 20, 22, and 23, and Clean Air Act sections 111, and 502(a), and part C of Title I, as codified in 40 Code of Federal Regulations Parts 51, 60, and 70.

 Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

 X Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

The agency will not need additional revenue to implement this rule.

Fiscal impact to persons affected by the rule:

The rule changes will primarily affect owners and operators of grain elevators, which includes country grain elevators, grain terminal elevators, and country grain terminal elevators as defined in the proposed rule. Based on previous information obtained from this source sector, the Department estimates that at least 838 existing grain elevators state-wide could be impacted by these rule changes.

Permitting and Emissions Inventory

All grain elevator owners or operators will be required to complete and submit a Group 1 registration, a Group 2 permit application, or a standard air construction permit application depending on the level of potential emissions from the facility. A little over 700 existing grain elevators will be eligible to use the one-page registration. Approximately 70 existing grain elevators will be eligible to use the Group 2 permit application. Both the Group 1 registration and Group 2 permit application will require owners or operators to provide basic identification information and to calculate their potential emissions. The Department estimates that approximately four (4) hours will be needed to complete either the Group 1 registration letter or the Group 2 permit application (including emissions calculations). Assuming staff costs of \$30/hour, this equates to \$120 per facility.

Approximately 20 owners or operators of existing grain elevators may need to complete an air construction permit application, which would include emissions calculations. This will likely require the services of a consultant and could also require the completion of computer air dispersion modeling. The Department estimates that the cost for completing and submitting an air construction permit application could range from \$5,000 to \$20,000 per facility, depending on the size of the facility and the amount of computer dispersion modeling needed. Owners or operators of grain elevators that meet the definition of a major source under Title V (fewer than five facilities) would also be required to obtain a Title V operating permit. The Department estimates that the cost for a consultant to complete a Title V operating permit application could range from \$10,000 to \$25,000 per facility. It should be noted that grain elevators that can be classified as a small business, as defined in the Clean Air Act, will be able to use the free services of the Iowa Air Emissions Assistance Program located within the Iowa Waste Reduction Center at UNI to obtain assistance in completing air construction permit applications.

As mentioned above, all grain elevator owners and operators will be required to calculate their potential to emit (PTE) to determine which air construction permitting requirements apply to them. Owners or operators of approximately 100 of these facilities will also be required to report their annual emissions to the Department either annually or once every three years. The Department has worked with the Agribusiness Association of Iowa (AAI) and the Iowa Air Emissions Assistance Program at the Iowa Waste Reduction Center of UNI to create emissions calculation software that will simplify and automate this process at all grain elevators. The software and training on how to use it will be provided at no cost to grain elevator owners and operators. The software will also allow for streamlined emissions reporting and recordkeeping at each facility, further minimizing the fiscal impact of performing emissions calculations.

Best Management Practices

All grain elevator owners and operators will be required to implement Best Management Practices (BMP) to minimize the impact of particulate matter emissions from the facility and comply with the fugitive dust requirements of 567 IAC 23.3(2)"c." BMP requirements will depend on the level of emissions from the facility. Estimates of the BMP cost by PTE group are as follows:

Group 1 (PTE < 15 tons/yr): A little over 700 existing grain elevators will fall into this group. BMP provided in the Department's "Best Management Practices (BMP) for Grain Elevators" will be required to be implemented as applicable at each grain elevator. BMP requires owners or operators of existing grain elevators to continue to implement any good housekeeping practices or procedures already in place and to continue to maintain and operate equipment that reduces air emissions. BMP requires some minimal recordkeeping to demonstrate that practices and procedures are continued and equipment is being maintained and operated properly.

(Fiscal impact to persons affected by the rule is continued on the next page.)

Fiscal impact to persons affected by the rule (cont.):

Based on these considerations, the Department estimates that the additional costs to a typical Group 1 grain elevator owner or operator to implement BMP will be negligible.

Group 2 (PTE ≥ 15 and ≤ 50): Owners or operators at approximately 70 existing grain elevators will be required to use oiling or an equivalent method that results in the same facility wide reduction in PM10 emissions, in addition to the basic BMP specified for Group 1. Assuming grain oiling is selected, the cost would be approximately \$60,000 per facility to purchase and install a grain oiling system. On-going annual operating costs are estimated not to exceed \$10,500 at each facility.

It is difficult to estimate the cost of purchasing and installing an equivalent method due to unknowns such as which PM10 emissions units would be selected for control and the amount of PM10 emissions reductions necessary to attain the same reduction realized through grain oiling. PM10 emissions units that could be selected include receiving pits and load out spouts. Costs to control PM10 emissions from these units are estimated to range from \$90,000 to \$225,000 per emissions unit, depending on the control method selected. These estimates do not include on-going annual operating costs.

Groups 3 and 4 (PTE > 50): Approximately 20 grain elevators fall into these groups. Existing emissions units at grain elevators in these groups will be reviewed as part of the construction permit process to ensure that applicable emission limits can be achieved and air quality standards are attained. The results of these reviews may require that air pollution controls be installed, in addition to implementation of the basic grain elevator BMP. Equipment emissions testing and on-going recordkeeping related to the operation of the equipment may also be required. The costs to purchase and install air pollution control equipment will depend on the number of emissions units that require control and the degree to which they need to be controlled. Typical controls might include a mix of grain oiling, and enclosures, aspiration systems and bag filters for receiving pits and load out spouts. The Department estimates that costs could range from \$180,000 to \$5 million facility-wide. One time testing of emissions from some or all of this equipment is estimated to range in cost from \$50,000 to \$100,000 facility-wide.

Bin Vent Particulate Matter Emission Standard: The majority of the grain elevator bin vents have been operated uncontrolled since the bins were constructed. Available particulate matter emissions testing data reviewed by the Department for grain elevator bin vents affected by this rulemaking indicates that a representative level of uncontrolled particulate matter emissions from a grain elevator bin vent is 1.0 grain per dry standard cubic foot (gr/dscf) of exhaust gas. Because of the ambiguous status of the regulatory requirements for existing bin vents during the period that state statute limited the Department's authority to regulate grain elevators, and the safety and cost concerns for retrofitting of controls on existing bin vents, the Department is allowing particulate matter emissions from existing grain elevator bin vents affected by this rulemaking to continue to meet a 1.0 gr/dscf of exhaust gas emission limit, instead of the 0.1 gr/dscf of exhaust gas standard currently specified in rule. This revision of the standard for existing grain elevator bin vents will impact grain elevator owners and operators in a positive manner that could have otherwise been required to install controls on bin vents to meet the emission standard currently in rule.

Construction of new bins at other facilities with throughputs similar to those at country grain terminal elevators or grain terminal elevators has shown that emissions of particulate matter from the new bins can be controlled to meet the existing 0.1 gr/dscf of exhaust gas emission limit. This rule maintains the 0.1 gr/dscf of exhaust gas emission limit for new bins at country grain terminal elevators and grain terminal elevators. The costs to purchase and install air pollution control equipment on new bins will depend on the number of bin vents and the degree to which they need to be controlled. Typical controls might range from bin vent filters to aspiration systems with bag filters. The Department estimates that installation costs could range from \$15,000 to \$220,000 for each bin, depending on the bin and the type of control selected. If an aspiration system with bag filter is selected, the dollar per ton of particulate matter controlled cost would be decreased if additional ducting were included to attach one or more existing bins at a facility to the control device for the new bin. One time testing of emissions from some or all of the new bin vents, if required, is estimated to range in cost from \$50,000 to \$100,000.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

No impact. There are no municipally owned or operated grain elevators. There will also be no impact to the local air quality programs in Linn or Polk counties since all grain elevators in both of these counties have already been permitted.

* If additional explanation is needed, please attach extra pages.

Agency Representative preparing estimate: Jim McGraw
Telephone Number: 515-242-5167

**PUBLIC PARTICIPATION RESPONSIVENESS SUMMARY
FOR
567 Iowa Administrative Code Chapters 20, 22 and 23
Air Quality Program Permitting Rules for Country Grain Elevators**

Introduction

The Notice of Intended Action was published in the Iowa Administrative Bulletin (IAB) on August 29, 2007, as ARC 6186B. Public hearings were held on September 24, September 26, and October 2, 2007, in Urbandale, Cedar Rapids, and Spencer, respectively. No oral comments were received at the public hearings. Four sets of written comments were received before the public comment period closed on October 3, 2007. A summary of the comments and the Department's response to the comments is provided below.

Each comment is followed by the Department's responses to the comments, and a description of any changes to the final rule being made in response to the comments.

Comments from Agribusiness Association of Iowa (AAI)

1) **Comment:** AAI noted that the proposed rule and the Group 1 Grain Elevators Registration form both state that the department manual, "*Best Management Practices (BMP) for Grain Elevators (August 2007)*" is scheduled to be adopted by the Commission on November 6, 2007. AAI requested that the Commission not adopt the BMP manual before the entire proposed rule that incorporates the BMP is adopted by the Commission.

Department Response

The Department concurs that the reference to the Commission adoption date for these documents should be corrected to align the date with the date that the Commission adopts the proposed rules as final.

Recommended Action

Change the references in the final rule and the Group 1 Grain Elevators Registration form that specify the adoption date of the BMP document to December 4, 2007. This is the date that the EPC is scheduled to adopt the proposed rules as final.

2) AAI expressed specific concerns about several of the BMP.

- a. **Comment:** "*Grain handling equipment shall be cleaned, enclosed, or controlled as necessary to minimize visible dust emissions to the atmosphere to 5% or less opacity when the equipment is being operated.*"

AAI stated that there are likely situations at some existing elevators where it would not be practical to enclose or otherwise control some existing unenclosed belt conveyors or other grain handling equipment. They noted that at transfer points and/or during periods of high winds, the opacity from some pieces of grain handling equipment may exceed 5% opacity. AAI

recommended that the phrase “*as necessary*” in the above BMP be changed to “*as practical*” to allow for some unique situations at existing grain elevators.

Department Response

The intent of this BMP is to minimize visible dust emissions to an opacity of 5% or less. However, the Department will work with facility owners or operators as necessary if unusual circumstances result in opacities that exceed 5%. The Department has the discretion to work with facility owners or operators to determine if additional controls or other measures are necessary. Based on this consideration, the Department will retain the phrase “*as necessary*” in the BMP language.

Recommended Action

No action recommended.

- b. **Comment:** “*If grain oiling is used, grain shall be oiled after receipt at the grain unloading station and prior to transfer to bin storage.*”

AAI stated that this BMP should be removed from the general BMP list since only Group 2 elevators are required to oil the grain (or provide an equivalent means of plant-wide PM10 emission reductions). If a facility owner or operator chooses to oil their grain, they should be free to decide where it will be most appropriate for their operations.

Department Response

The BMP list as written is intended for use at Group 1 facilities. It therefore does not mandate the use of oiling but instead provides instructions about when grain should be oiled if a facility owner or operator wishes to take credit across the facility for grain oiling in their potential to emit calculations. The Department concurs that a facility owner or operator should be able to decide where it is most appropriate to oil grain for their operations. This additional flexibility and the resulting change in the percentage of PM-10 control will also have to be accounted for in the PM-10 calculation tool.

The BMP list forms the basis for the BMP and associated recordkeeping that is contained in the Group 2 permit application. The same will be true for incorporation of the applicable portions of the BMP list into permits that are issued for emission points located at Group 3 and 4 facilities.

Recommended Action

The language for this BMP will be modified in the BMP document and in the Group 2 Grain Elevator Permit to allow oiling at other points in the process.

- c. **Comment:** “*Inlets and outlets to dryers shall be enclosed.*”

AAI commented that the wording of this BMP should be changed as follows to prevent misunderstandings of its intent: “*Grain inlets and grain outlets to the dryer shall be enclosed.*”

Department Response

The Department concurs with this suggested change.

Recommended Action

The applicable language in the BMP document and condition 14 of the Group 2 Grain Elevator Permit shall be updated to include AAI's suggested language.

- d. **Comment:** *"Rack dryers shall have a maximum screen size of 50 mesh on replacement screens or new dryer screens."*

AAI suggested the following change would add clarity by using a term that is more commonly used for rack dryers: *"Rack dryers shall have a maximum screen house filter size of 50 mesh on replacement screen house filters or new dryer screen house filters."*

Department Response

The Department concurs with this suggested change.

Recommended Action

The applicable language in the BMP document and condition 14 of the Group 2 Grain Elevator Permit shall be updated to include AAI's suggested language.

- e. **Comment:** *"Air pollution control equipment shall be checked daily for proper operation when operated. This requirement does not apply on days that the control equipment does not operate."*

AAI stated that making the following changes to this BMP could enhance the clarity of this BMP: *"Air pollution control equipment shall be operated when the emission source is in operation and shall be checked daily for proper operation when operated. This requirement does not apply on days that the emission source [delete "control equipment"] does not operate."*

Department Response

The Department concurs with this suggested change.

Recommended Action

The applicable language in the BMP document and in condition 14 of the Group 2 Grain Elevator Permit shall be updated to include AAI's suggested language and the words "when operated" at the end of the first sentence will also be deleted.

- f. **Comment:** *"Clean the yard, ditches and curbs as necessary to prevent accumulation of grain, chaff, and grain dust."*

AAI commented that the following word change more accurately reflects the intent of this BMP as a housekeeping measure since any time that something is cleaned, there is already something there: *"Clean the yard, ditches and curbs as necessary to remove [delete "prevent"] accumulation of grain, chaff, and grain dust."*

Department Response

The Department concurs that the word “prevent” needs to be replaced in this BMP. However, the intent of this BMP is to ensure that facility owners and operators are taking the necessary steps to minimize the accumulation of grain, chaff, and grain dust at their facilities that could result in visible emissions of fugitive dust beyond the property line of the facility, not merely removing accumulations of these materials after they have reached some level that is deemed unacceptable to the facility owner or operator.

Recommended Action

To better capture the intent of this BMP, the word “prevent” shall be replaced in the BMP document and in condition 14 of the Group 2 Grain Elevator Permit with the word “minimize” as follows: *“Clean the yard, ditches and curbs as necessary to minimize [delete “prevent”] accumulation of grain, chaff, and grain dust.”*

- g. **Comment:** *“If feasible, load outs shall use socks and drop-down spouts or sleeves, or equivalent, which extend at least 6 inches below the sides of the receiving container to minimize grain free-fall distance, except for topping off.”*

AAI requests that words “to minimize grain free-fall distance,” be removed as they do not add anything to the BMP requirement.

Department Response

The words “to minimize grain free-fall distance” were include in the BMP language to explain the purpose of requiring that drop-down spouts or sleeves extend at least 6 inches below the sides of the receiving container, when feasible.

Recommended Action

No action recommended.

3) **Comment:** AAI noted that the definitions of “country grain elevator”, “country grain terminal elevator” and “grain terminal elevator” are all dependant upon what percentage of grain the elevator receives from farmers in the “immediate vicinity,” which is not specifically defined in the proposed rule. AAI expressed their belief that this term is ‘self-defining’ in that if an elevator is close enough for a farmer to be able to economically truck the grain to that elevator, then that farmer is in the “immediate vicinity”.

AAI also noted that the proposed rule defines “permanent storage capacity” as “grain storage capacity which is inside a building, bin, or silo.” AAI understands this to mean that ground piles of grain, either with or without a perimeter wall do not meet the definition of a “building, bin, or silo.”

Department Response

The Department concurs with AAI's interpretation regarding the idea of what would constitute "immediate vicinity." AAI's understanding of the exclusions to what is considered "permanent storage capacity" is also correct.

Recommended Action

No action recommended.

4) **Comment:** Given the fact that the effective date of the final rule is uncertain, AAI requested that the March 31, 2008 date included in the proposed rule for submittal of registration forms or permit applications be replaced with a placeholder statement that reads "[180 days after the effective date of the rule to be inserted]". AAI also noted that the "[effective date of the rule to be inserted]" language should be inserted for the "January 9, 2008" date that appears in the Group 1 Grain Elevators Registration form pages.

Department Response

The rules are still on track to be effective before March 31, 2008. The Department will be partnering with AAI, UNI's Waste Reduction Center, and the Department of Economic Development's Small Business Environmental Liaison to provide eight workshops around the state with the goal of educating facility owners and operators about the grain elevator rule requirements and to provide one-on-one assistance with calculation of facility emissions and completion of forms and applications as needed. These workshops will start in November 2007 and will be completed during January 2008, which corresponds to the time period between fall harvest and spring planting and will allow affected facility owners and operators the opportunity to become informed of the rule requirements before the rules become effective. Conducting the workshops during this time period and then waiting until sometime in August 2008 (180 days after the likely effective date of the rule) to require owners or operators to submit the applicable forms or permit applications would deny many owners and operators the opportunity to use knowledge gained at the workshops to confidently calculate their facility emissions and complete the applicable forms or applications. Based on the timing of the training and outreach, ample time exists for facility owners or operators to become familiar with the rule requirements and submit the required forms or applications.

Recommended Action

The Department will replace the "January 9, 2008" date currently listed in the Group 1 Grain Elevator Registration form pages with the actual effective date of the final rules.

5) **Comment:** AAI noted that it should be clearly reflected in the rules, the Group 1 & 2 registration and permit forms, as well as the PTE calculation tool and instructions, that grain elevator owners or operators should be able to take into consideration any controls that would be installed and operational within 12 months of the start of the registration period when calculating the potential to emit of their facility. AAI stated that Group 2 elevators should also have this same period of time to have the required grain oiling or "equivalent measures" in place.

AAI commented that the PTE calculation tool is still under development and has not been available to the public or affected facilities for review and comment during the public comment period for this rule. Since this tool is an extension of the proposed rule and is an implementing

device for the proposed rule, AAI believes that the public or at least the affected facilities must have an opportunity to review and comment on the PTE calculation tool prior to the proposed rule being finalized. AAI also noted that there should be language in the preamble, proposed rule or some other mechanism to ensure that this PTE tool is consistent with the rule requirements.

Department Response

The requirement that any controls used in calculating the potential to emit of a facility be installed and operational within 12 months of the start of the registration period is currently not specified in the proposed rules and will need to be corrected before the rules are finalized. To better align this time period with the required submittal date for the registration form or application, the requirement for any controls to be installed and operational will be changed from within 12 months of the start of the registration period to within 12 months of the conclusion of the registration period. This requirement impacts Group 1 and 2 facilities only. Group 3 and 4 facilities will be issued air construction permits which will specify when construction must be started and when construction must be completed for any emission points that will require modifications for air pollution equipment.

Subsequent to the completion of the public comment period for the proposed rules, a test version of the PTE calculation tool was made available to AAI for field testing at selected grain elevators and grain terminals. The Department expects to have the PTE calculation tool completed and ready for use by the first Grain Elevator Workshop, which is scheduled for November 14, 2007. This will be well ahead of the Department's request to the Commission to adopt the proposed rules as final at the December 2007 Commission meeting. The PTE calculation tool is being designed to facilitate implementation of the grain elevator rule requirements and as such will be consistent with the rule requirements. The Department believes that it is not necessary to state this in the rule preamble, the rule language, or through some other mechanism.

Recommended Action

The proposed rules and the instructions for the PTE calculation tool will be updated as necessary to allow grain elevator owners or operators at Group 1 and 2 facilities to take into consideration any controls that would be installed and operational within 12 months of the conclusion of the registration period (March 31, 2009) when calculating the potential to emit of their facility. The BMP requirements in the proposed rules for Group 1 and 2 facilities, and the Group 1 Registration Form and the Group 2 Grain Elevator Permit, were also updated to require that BMP, as applicable, be implemented no later than March 31, 2009. The owner or operator of a new Group 1 or 2 facility will be required to implement BMP as applicable upon start-up of equipment at the facility.

6) **Comment:** AAI commented that the Department previously issued construction permits, including one PSD permit, for uncontrolled grain bin vents that included a 0.1 gr./scf particulate emission limit and were presumed by Department to be in compliance. AAI further states that the Department's perception of the particulate emissions has changed based on limited stack test data that were objected to and opposed by a number of industry associations.

Department Response

Only seven permits have been issued that included the 0.1 gr./scf for uncontrolled grain bin vents, including two permits that were issued by the City of Des Moines in the early 1960s. The Department has recently obtained new information on the emissions from grain bin vents since these permits were issued that affirms the need for controls to meet the emissions standards. In 2003, the Department and AAI partnered to better characterize particulate emissions from uncontrolled bin vents. Stack testing was conducted on bins at a facility using different scenarios such as the type of grain and the use of oiling. This testing showed uncontrolled grain bin vents, even with oiling, could not meet the 0.1 gr./scf particulate standard. Testing was conducted according to the Iowa Compliance Sampling Manual (which incorporates the federal reference method for particulate matter into Iowa rule).

In regards to a PSD permit, the Department recently issued PSD permits to a grain processor that included a particulate emission limit that met the 0.1 gr./scf standard and Best Available Control Technology (BACT) requirements.

Recommended Action

No action recommended.

7) **Comment:** AAI requested the 1.0 gr./scf standard be at least extended to all new grain bin vents that are associated with a grain bin that will have less than 21 million bushels per year throughput based on an analysis conducted for the small unit permitting exemption.

Department Response

The AAI analysis of the expected emissions from uncontrolled bin vents at a grain elevator with 21 million bushels per year of throughput demonstrates that it may be possible to apply the small unit permitting exemption to bin vents at a facility of this size. The construction permit exemptions only exempt a source from the requirement to obtain an air construction permit and do not exempt a source from the emission standards listed in rule. The issue in question is whether the 0.1 gr./scf particulate standard is a reasonable emission limit for new grain bin vents. The Department has found that construction of new bins at other facilities with throughputs similar to those at country grain terminal elevators or grain terminal elevators has shown that emissions of particulate matter from the new bins can be controlled to meet the existing 0.1 gr./scf of exhaust gas emission limit. For example, all grain bins constructed at new ethanol plants over the last few years have included particulate controls to meet this standard.

Recommended Action

No action recommended.

8) **Comment:** AAI commented that the Department stated the intent of the proposed regulations was to regulate grain elevators in a manner that is similar to that of surrounding states. AAI goes on to say that many other states have particulate emission standards of 0.1 gr./scf and no requirements for uncontrolled grain bin vents to add controls in order to comply with the standard. AAI commented that it supports the proposed 1.0 gr./scf but further recommends that the 1.0 gr./scf particulate emission standard be extended to all grain bin vents, both current and future, at all elevators in the state.

Department Response

The permitting process proposed in these regulations is similar to that of other states. Since the 1970s the 0.1 gr./scf standard has been in place and has applied to grain elevators in Iowa. The Department has evaluated the particulate matter emission levels similar size grain facilities are currently achieving across Iowa. This evaluation indicated that bins at the majority of grain processors and ethanol production facilities are at least achieving the current 0.1 gr./scf emission standard. Since these facilities have throughputs similar to those at country grain terminal elevators or grain terminal elevators the Department concluded that it was not unreasonable to expect new bins at these types of facilities to also be able to achieve 0.1 gr./scf.

Recommended Action

No action recommended.

9) **Comment:** AAI states the cost in terms of “dollars per ton of emissions controlled” associated with adding controls on grain bin vents is not justifiable, even under the stringent PSD permitting process.

Department Response

Emissions from multiple bins and other emission sources can be ducted to a common control device to meet the particulate matter emission standard. This spreads the cost of emissions control over a larger amount of emissions, thereby reducing the dollar per ton cost of controlling the emissions. This emission standard is a separate and typically less onerous requirement than required under PSD.

Recommended Action

No action recommended.

10) **Comment:** AAI commented that there are areas of the proposed rule that provide incentive to reduce particulate matter emissions at grain elevators, but if the proposed rule is not changed to extend the 1.0 gr./scf particulate emission limit to all new grain bin vents at all elevators there will be an incentive to increase particulate matter emissions. AAI provided some scenarios of possible changes in storage practices that could result in increased emissions.

Department Response

The cost and logistical issues associated with grain transportation make it unlikely that significant quantities of grain will be shipped out of state solely to avoid the requirements of these regulations. In addition, the complexities of storing grain temporarily, including the higher product quality loss rates and logistical considerations, makes it highly unlikely that a significant increase in the temporary storage of large quantities of grain will result from the adoption of this rule.

Recommended Action

No action recommended.

11) **Comment:** AAI suggested a possible alternative to extending the 1.0 gr./scf standard to all grain bin vents might be to require oiling of grain that goes to new permanent storage at all elevators except country grain elevators. AAI further states that some literature puts the

effectiveness of oiling grain to control particulate emissions as high as 90% which would result in emissions that comply with the 0.1 gr./scf standard.

Department Response

Particulate matter emissions testing data reviewed by the Department for grain elevator bin vents does not support a 90% emissions reduction from oiling grain. This testing showed uncontrolled grain bin vents, even with oiling, could not meet the 0.1 gr./scf particulate standard.

In addition, AAI has previously stated that not all facilities would be able to use oiling as a viable control option depending on their operations or the grain market they were supplying. This is why the proposed rules allow the flexibility of using oiling or equivalent measures to reduce emissions.

Recommended Action

No action recommended.

12) **Comment:** AAI commented that air emission sources that were built prior to the air construction permitting requirements becoming applicable in 1970 were considered “grandfathered” sources and do not need an air construction permit until those sources are modified. They also commented that since the Iowa General Assembly restricted the Department’s ability to require air construction permits for elevators between 1978 and 1995 that no air construction permits should be required for any air emission source at an elevator that was constructed, reconstructed or modified between 1978 and 1995.

Department Response

Air emission sources constructed prior to September 23, 1970 are not required to have air construction permits (567 Iowa Administrative Code 22.1(1)). Any modifications made to these air emission sources after this date require air construction permits. Item 4 of the proposed rules gives grain elevator owners or operators the option to comply with the requirements specified in rule 22.10 instead of obtaining construction permits as required in subrule 22.1(1). This provision does not require owners or operators of air emission sources constructed prior to September 23, 1970 to obtain air construction permits unless the owner or operator elects to do so.

The introductory language to the proposed rule states that the Iowa General Assembly restricted the Department’s ability to regulate country grain elevators; it does not state that the Department’s ability to issue construction permits was restricted. The preamble language goes on to state that the Department did not enforce the requirement that owners or operators of a grain elevator obtain air construction permits from 1978 until 1995. When the Iowa General Assembly lifted the regulatory restrictions in 1995 it did not prohibit the Department from requiring grain elevators constructed or modified during this period to obtain air construction permits. The streamlined permitting mechanism included in the proposed rules is intended to create a level playing field for all grain elevators in the state.

Recommended Action

No action recommended.

Comments from the Environmental Protection Agency (EPA)

Comments from Region 7 of the U.S. Environmental Protection Agency (EPA) expressed appreciation for the Department's efforts to address the longstanding issue of air pollution control regulations at grain elevators. EPA also noted that the proposed rules would constitute a relaxation of permit rules in the current state implementation plan and requested that the Department analyze the air quality impact of the rules in more detail. Specifically EPA asked that the Department address the three concerns noted below.

13) **Comment:** For Group 2 sources, EPA requested that the Department identify the authority by which the Department will continue to ensure that air quality analyses (e.g., modeling) are performed, if necessary, prior to construction to show that the National Ambient Air Quality Standards (NAAQS) are protected. They also suggested that the Department consider the inclusion of language in the preamble to the rule specifying that Group 2 permits are not exempt from potential air quality analysis.

Department Response

The department is required (567 IAC 22.3(1)"b") to ensure that the expected emissions from the proposed source or modification, in conjunction with all other emissions, will not prevent the attainment or maintenance of the ambient air quality standards before issuing a permit to construct. The proposed grain elevator rules do not supersede this requirement and do not prohibit the Department from requesting or conducting an air quality analysis, if necessary, as part of the Group 2 Grain Elevator Permit review and approval process.

Recommended Action

Language clarifying that the air quality impacts of emissions from Group 2 facilities may be evaluated as part of the Group 2 permit review and approval process will be added to the rule preamble.

14) **Comment:** EPA stated that the BMP document does not contain recordkeeping requirements to show that the BMP are being met on a continuous basis and requested that the Department identify the recordkeeping requirements applicable to Groups 2-4 sources as a part of the BMP document.

Department Response

The BMP document is being adopted by reference into 567 IAC 22.10 for Group 1 facilities only and as proposed does not include recordkeeping requirements. While the Department does not agree that BMP recordkeeping is necessary for Group 1 facilities the Department does agree that recordkeeping for BMP should be encouraged at Group 1 facilities. For Group 2, the BMP will be included as permit conditions in the associated permit. Recordkeeping requirements are included in condition 15 (Operating Equipment Monitoring) of the Group 2 Grain Elevator Permit for BMP that require recordkeeping. Similar recordkeeping requirements will be included in construction permits for Groups 3 and 4 per already approved state permitting authorities and procedures.

Recommended Action

Language will be added to the BMP document stating that owners or operators of Group 1 facilities are encouraged to maintain records as a means to demonstrate that applicable BMP are being implemented.

15) **Comment:** EPA commented that the change in the emission limit for bin vents (from 0.1 to 1.0 gr./dscf) constitutes a significant relaxation of the current rule. EPA requested that the Department provide a detailed air quality analyses for the change, including a discussion of the anticipated emissions increases and air quality impacts projected as a result of the change.

Department Response

Bin vent testing data obtained by the Department indicates that existing uncontrolled bin vents are already emitting at 1.0 gr./dscf. As such, the proposed change from 0.1 to 1.0 gr./dscf will not result in any actual emissions increases from these bin vents.

The threshold for the SIP approved small unit exemption (567 IAC 22.1(2)“w”) is 5 tons per year (tpy) of particulate matter (PM) emissions. An analysis by the Department of the PM emissions from a bin vent emitting at 1.0 gr./dscf of exhaust gas showed that the PM emissions would be less than 5 tpy at a facility with 35 million bushel per year throughput rate. This throughput rate is on the upper end of the throughput range for the majority of the grain elevators that will be affected by the proposed rules.

The conservative air quality screening analysis completed to support the technical validity of the small unit exemption indicated that a minimum stack height of 20 feet above grade was necessary to be protective of the PM-10 NAAQS when PM-10 emissions (assuming that all PM was PM-10) were set at 5 tpy. The release height for the majority of the bin vents currently in operation is well over 20 feet. Based on these considerations, and the fact that existing uncontrolled bin vents are already emitting at 1.0 gr./dscf of exhaust gas, the Department does not expect that this relaxation will result in a perceptible or measurable change in air quality.

Recommended Action

No action recommended.

Comments from Gerald Luedtke

Gerald Luedtke submitted comments pertaining to three specific issues.

16) **Comment:** Mr. Luedtke commented that instead of one generalized permit form for grain elevators the Department has created four categories, each applied to specific conditions at a grain elevator. In addition, there are more recordkeeping requirements and more complicated emissions calculations.

Department Response

The Department originally attempted to develop one generalized permit form for grain elevators but discovered that this was not possible due to the large variation in the number, capacity, and operations of grain elevator air emission equipment across the state. As described in the rule

preamble, the Department used emissions thresholds typically used for permitting grain elevators in surrounding states and split the grain elevator source sector into four groups based on their potential emissions of PM-10. The result is a tiered approach where permitting, emissions reporting, and emissions control requirements increase as potential emissions increase by group. The Department estimates that over 90 percent of the grain elevators in the state will fall into Group 1. Owners or operators of Group 1 grain elevators are required to calculate their emissions to verify that they meet the Group 1 emissions threshold, complete a one page registration form, and implement the applicable best management practices (BMP). These requirements are much less burdensome than those originally envisioned under the one generalized permit approach.

It is the responsibility of every facility owner or operator in the state to know the type and quantity of air pollutants emitted from their facility. To assist grain elevator owners or operators in meeting this responsibility the Department is teaming with AAI and the UNI Waste Reduction Center to provide an emissions calculation tool that will streamline and simplify the calculation and reporting of air emissions from grain elevators. The Department will provide instructions on how to use this tool and assistance in calculating emissions at a series of workshops that will start in November 2007 and run through January 2008.

Recommended Action

No action recommended.

17) **Comment:** Mr. Luedtke stated that the bin vent emission rate of 1.0 gr./dscf of exhaust gas would only apply to Group 1 or 2 elevators while some type of bin vent control would be required for Groups 3 and 4. He also commented that adding bin vent filters to high volume terminals may have unexpected consequences.

Department Response

The proposed revisions to the PM emission standard in 567 IAC 23.4(7) are based on the type of grain elevator the bin vent is located at and whether the bin vent is an existing bin vent or a new bin vent. The proposed PM emission standards will be independent of the emissions group (1, 2, 3, or 4) that the grain elevator may fall into.

Based on past testing of bin vent emissions, existing uncontrolled bin vents are already meeting the 1.0 gr./dscf of exhaust gas standard and therefore will not need to have controls installed on the bin vents. The proposed revisions to subrule 23.4(7) do not specify what type of control, if any, a facility owner or operator may have to install to meet the 0.1 gr./dscf of exhaust gas standard on bin vents that may be installed on bins constructed in the future at a grain terminal or country grain terminal, as defined in the proposed rules.

Recommended Action

No action recommended.

18) **Comment:** Mr. Luedtke noted that one time oiling is a good idea but that the second or third time grain is oiled and then moved to a terminal with dust filters could result in dire results. Over oiled grain and bag filters are not compatible and the net result will be less control. There

also could be some resistance from ethanol plants as any detectable oil on treated grain could be rejected. Also, Mr. Luedtke expressed concern that the proposed rules will result in tighter equipment and structures, making the grain products more dangerous to handle.

Department Response

The Group 2 Grain Elevator Permit allows owners or operators to use grain oiling or an equivalent control that will result in the same facility-wide PM-10 reductions that would have occurred if grain oiling was used. As such, the Department believes Group 2 facilities have the flexibility to use grain oiling as appropriate in their operations, thereby mitigating the concerns regarding over oiling of grain. Owners or operators who are providing grain to ethanol facilities will have to be cognizant of the grain quality requirements for ethanol production and make adjustments as appropriate.

The BMP specific to grain handling equipment, such as cleaning, enclosing, or controlling as necessary grain handling equipment to minimize visible dust emissions to the atmosphere to 5% or less opacity, and minimizing operation of aeration fans during loading of grain into storage bins, are intended to reduce dust generation during grain handling operations. Reducing dust should result in a corresponding decrease in the danger inherent in handling grain.

Recommended Action

No action recommended.

Comments from Arn Air

Arnold Kesselring of Arn Air, located in Bayard, Iowa, commented that in general the rules should provide some help in reducing the dirt problems that bother small towns around Iowa and expressed his appreciation that the Department would have some rules to enforce at grain elevators that focused on human health and environmental impacts.

19) **Comment:** He noted that grain dryers should be restricted from operations during high wind conditions since winds above 20 mph can carry large amounts of dirt. Mr. Kesselring also commented that no definition of “vicinity” in relation to the definition of country grain elevator could make it problematic to determine which farmers are included in the vicinity and which are not.

Mr. Kesselring concluded his comments with a discussion of some previous problems in Bayard that he associated with the local grain elevator, including the use of grain dryers to remove mold from grain and the open air storage of large quantities of grain on the ground for periods of time sufficient that the corn began fermenting and releasing alcoholic fumes.

Department Response

The BMP for grain dryers included in the BMP document do not restrict the operation of grain dryers during high wind conditions. However, as provided for in 567 IAC 23.3(2)“c,” the department may, upon notification to the grain elevator’s owner or operator, require the owner or operator to implement additional practices and measures that are not already being implemented as BMP to prevent the discharge of visible emissions of fugitive dust beyond the property line.

The Department believes that this current rule provision provides a sufficient basis in specific situations, including high wind conditions, to require actions beyond those included in the BMP to prevent visible emissions from crossing the facility property line.

In the proposed rule, the definitions of the three types of grain elevators subject to the rules are all dependant upon what percentage of grain the grain elevator receives from farmers in the “immediate vicinity”. The Department believes that the term “immediate vicinity” is self-defining in that if an elevator is close enough for a farmer to be able to economically truck the grain to that elevator, then that farmer is in the “immediate vicinity”.

Specific issues, complaints, and past compliance actions related to an individual grain elevator, and issues related to the non-permanent storage of grain, are beyond the scope of this rulemaking and will not be addressed further in this responsiveness summary.

Recommended Action

No recommended action.